



**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2026-33
KENAI RECORDING DISTRICT**

**A RESOLUTION GRANTING A BUILDING SETBACK ENCROACHMENT PERMIT
TO A PORTION OF THE TWENTY-FOOT BUILDING SETBACK FOR LOT 10,
BLOCK 6, MARINERS WATCH SUBDIVISION PART 1 (KN 78-44); LOCATED
WITHIN S19, T05N, R11W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI
PENINSULA BOROUGH; KPB FILE NO. 2026-057**

WHEREAS, pursuant to KPB 20.30.240, a minimum twenty-foot building setback from all dedicated rights-of-way in subdivisions located outside incorporated cities is required; and

WHEREAS, issuance of a building setback encroachment permit is an exception to the rule prohibiting such encroachments; and

WHEREAS, KPB 20.10.110 governs building setback encroachment permits and authorizes the Planning Commission to grant building setback encroachment permits by resolution; and

WHEREAS, KPB 20.10.110(E) provides the three Standards the Planning Commission must consider when evaluating building setback permit applications; and

WHEREAS, the Planning Commission may only approve an encroachment permit if there is substantial evidence showing that each of the three Standards in KPB 20.10.110(E) are met; and

WHEREAS, these are affirmative findings, and the petitioner has the burden to prove with substantial evidence they are true; and

WHEREAS, Bette M Swan, Personal Representative of the Estate of Clare Margaret Swan and the Estate of Van Buren Swan, of Kenai, Alaska (petitioner) requested a building setback encroachment permit to the twenty-foot building setback granted by Mariners Watch Subdivision Part 1 (plat KN 78-44); and

WHEREAS, on Monday, June 22, 2026, the Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed exception; and

WHEREAS, the Planning Commission found that the petitioner met the burden of proof with substantial evidence as to each of the three Standards found in KPB 20.10.110(E); and

WHEREAS, the Planning Commission found that granting the building setback encroachment permit will not be detrimental to the public interest;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the petitioner has met the burden of proof with substantial evidence as to each of the three standards found in KPB 20.10.110(E).

SECTION 2. That an exception to the twenty-foot building setback limit on Lot 10, Block 6, Mariners Watch Subdivision Part 1 (Plat KN 78-44) is hereby granted to accommodate only the encroaching portion of the approximate 36-foot by 48-foot shop based upon the following findings of fact:

Standard 1: The building setback encroachment may not interfere with road maintenance.

1. The building setback encroachment does not interfere with road maintenance because the road is straight in this area.
2. There is adequate space between the structure and the roadway.
3. Typical road maintenance such as snow removal in the winter and grading in spring and summer can and is performed safely.
4. There is a pre-existing grove of trees located between the house and the road.
5. The area has continued to be maintained without issue.
16. The shop sits about 34 feet from the constructed portion of the road.
17. Imagery indicates that the area between the shop and Karluk Avenue remains undeveloped, with trees obscuring the view of the shop from the roadway.
18. The sight distance along Karluk Avenue is not currently impacted by the encroachments as the road is straight.
19. Traffic turning from or onto Cork Line Drive does not appear to be impaired by the shop due to its location relative to the right-of-way and the presence of trees.
20. Based on KPB GIS contours data, the terrain of the subject lot is relatively flat.

Standard 2: The building setback encroachment may not interfere with sight lines or distances.

2. There is adequate space between the structure and the roadway.
6. There is clear visibility along the roadway in both directions.
7. The road is straight without any sight lines or visibility interferences, this extends past both sides of the property.
8. The encroachment does not create a safety hazard because the area has low traffic volume.
9. The structure does not obstruct drivers' views.
10. Vehicles can safely travel through the area without obstruction.
11. The sight lines are clear when entering the road from the driveway.
16. The shop sits about 34 feet from the constructed portion of the road.
17. Imagery indicates that the area between the shop and Karluk Avenue remains undeveloped, with trees obscuring the view of the shop from the roadway.
18. The sight distance along Karluk Avenue is not currently impacted by the encroachments as the road is straight.
19. Traffic turning from or onto Cork Line Drive does not appear to be impaired by the shop due to its location relative to the right-of-way and the presence of trees.

Standard 3: The building setback encroachment may not create a safety hazard.

2. There is adequate space between the structure and the roadway.
4. There is a pre-existing grove of trees located between the house and the road.
8. The encroachment does not create a safety hazard because the area has low traffic volume.
9. The structure does not obstruct drivers' views.
10. Vehicles can safely travel through the area without obstruction.
15. The 36-foot by 48-foot shop encroaches approximately 6.1 feet on the southeastern corner and approximately 6.6 feet on the southwestern corner into the required 20-foot building setback along Karluk Avenue.
16. The shop sits about 34 feet from the constructed portion of the road.
17. Imagery indicates that the area between the shop and Karluk Avenue remains undeveloped, with trees obscuring the view of the shop from the roadway.
18. The sight distance along Karluk Avenue is not currently impacted by the encroachments as the road is straight.

SECTION 3. That any new, replacement, and/or additional construction will be subject to the 20-foot building setback limit.

SECTION 4. That the granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the twenty-foot building setback from the parcel.

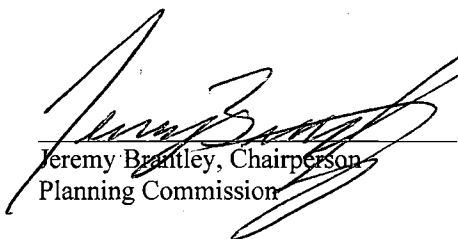


SECTION 5. That a current as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the location of the encroachment within the building setback be attached to, and made a part of this resolution, becoming page 4 of 4.

SECTION 6. That this resolution is void if not recorded in the appropriate Recording District within one year of adoption.

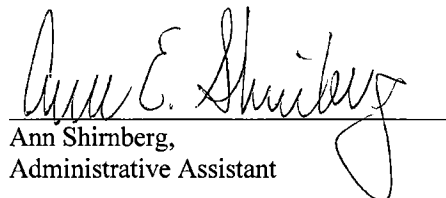
SECTION 7. That this resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fees.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 22ND DAY OF JUNE, 2026.



Jeremy Brantley, Chairperson
Planning Commission

ATTEST:



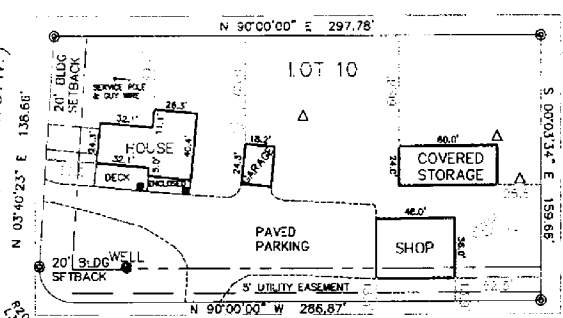
Ann Shimberg,
Administrative Assistant

Return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669



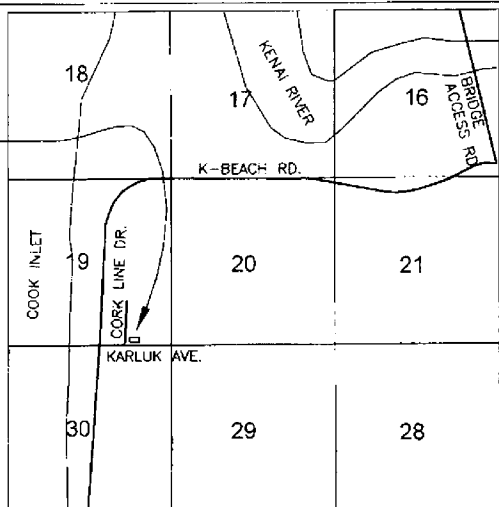
ASBUILT SURVEY
5/5/2026

CORK LINE DR.
(60' R.O.W.)



KARLUK AVE.
(66' R.O.W.)

THIS
SURVEY



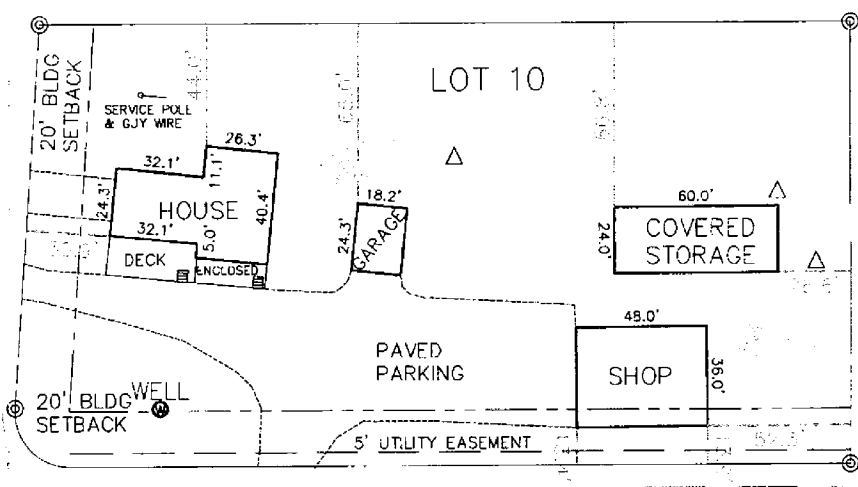
VICINITY MAP 1 INCH = 1 MILE



SEC. 19
T 5N R 11W

SCALE 1" = 100'

SCALE 1" = 60'



LEGEND:

- FOUND PERMANENT
- △ MONITOR TUBE

NOTES:

1. DIMENSIONS SHOWN DEPICTING IMPROVEMENTS INCLUDE SIDING AND TRIM IF APPLICABLE, AND DO NOT INCLUDE EAVES.
2. THE SHOP LIES PARTIALLY WITHIN (6.6' MAX.) THE 20' BUILDING SETBACK.
3. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT.

I hereby certify that I have performed an asbuilt survey of the following property:

LOT 10, BLOCK 6, MARINERS WATCH SUBDIVISION PART ONE, SECTION 19, TOWNSHIP 5 NORTH, RANGE 11 WEST, SEWARD MERIDIAN.

Kenai Recording District, Alaska, and that the improvements situated thereon are within the property lines and do not overlap or encroach on any property lying adjacent thereto, and that no improvements on property lying adjacent thereto encroach on the premises in question, other than those shown.

FINELINE SURVEYS

P.O. Box 774
Anchor Point, Alaska 99556
Dmitri D. Kimbrell, RLS (907) 360 6382

I hereby certify that the information provided is true and correct to the best of my knowledge, and that accepted standards of accuracy have been maintained.

